

Special Civil Application No 9639 of 95

with

Special Civil Application No 1129 to 1133 of 1996.

Date of decision: 19/02/96

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ARUNKUMAR G KACHHIYA

VS

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9639 of 1995

MR PB MAJMUDAR	for Petitioners
SERVED BY DS	for Respondent No. 1
MR RA MISHRA	for Respondent No. 3

2. Special Civil ApplicationNo 1129 1133/96.

MR PB MAJMUDAR	for Petitioners
SERVED BY DS	for Respondent No. 1 and 2.
MR RA MISHRA	for Respondent No. 3

Coram : MR.JUSTICE C.K.THAKKER

ORAL JUDGEMENT

Rule. Mr.V.B.Gharania, AGP appears for respondent Nos.1

and 2 and waives service of Rule. Mr.R.A.Mishra appears and waives service of rule on behalf of the respondent no.3. In the facts and circumstances of the case, these petitions are taken up for final hearing to day. Since common questions of fact and law are involved in these petitions, it is appropriate to dispose of all these petitions by a common judgment.

In all these petitions, a grievance is made by the petitioner against the respondent authorities that though all the petitioners were eligible, qualified and entitled to appointment on compassionate ground, by illegal action they have not been appointed on compassionate ground and they have approached this court. It is the case of the petitioners that they have made applications for getting appointment on compassionate ground, inter alia, stating that they are dependants and that their relatives who were in employment have died and hence their cases must be required to be considered in accordance with the Government guidelines, norms and resolutions issued from time to time.

Various contentions were raised by Mr.P.B.Majmudar, learned counsel for the petitioners. It was further submitted that in Special Civil Application No.4382/95 with CA No.1790/95, decided on September 5, 1995 (Coram: M.R.Calla J.) similar treatment was given. My attention was also invited to the judgment rendered by me in Spl.C.A.No.6166 of 1995, decided on February 5, 1996, in which after hearing the parties, I have passed the following order:

"The petition is accordingly allowed. It is directed that the respondent-petitioners will take an appropriate action so that an appointment on compassionate ground can be given to the petitioner. Such an action will be taken by the respondent-authorities as expeditiously as possible, preferably within four weeks from the date of receipt of the writ. Rule is made absolute to the above extent. No order as to costs. Liberty to apply in case of difficulty. Direct service is permitted."

It is the case of the petitioners that the petitioners have been placed at Sr.No.1, 55, 7, 13, 9 and 18 respectively and that except Mr.Vaghela Kiritkumar Laxmanbhai (Spl.C.A.No.1129 of 1996) other persons are entitled to get appointment on the compassionate ground inasmuch as persons who were shown as Juniors in the waiting list have been appointed. In the facts and circumstances of the case, no such direction can be issued. Mr.R.A.Mishara, learned counsel for the petitioner respondent no.3 drew my attention that it is the assertion of the learned counsel for the petitioners that they have been shown at Sr.No.1, 55, 7, 13, 9 and 18 respectively, looking to the records, which is annexed to the petition, that does not appear to be the position. No doubt, Mr.Majmudar submits that as on to day the position is that they have been placed at Sr.No.1, 55, 7,

13, 9 and 18 respectively and that the juniors to all the petitioners except Mr.K.L.Vaghela (Spl.C.A.No.1192/96) have been appointed on the compassionate ground.

In my opinion, an appropriate direction would be that the respondent authorities will reconsider the case of all the petitioners in the light of the order passed in Civil Application No. 1790 of 1995 in Spl.C.A.No.4382 of 1995 decided by my learned brother M.R.Calla J. on September 5, 1995 and observations made by me in Special Civil Application No.6166 of 1995 decided on February 5, 1996. Since the question relates to the appointment on the compassionate ground the respondent authorities are directed to decide the question as expeditiously as possible preferably within four weeks from the receipt of the writ. Liberty to apply in case of difficulty. Rule is made absolute to the above extent with no order as to costs.
